UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VIRGA CARTER,

       Plaintiff,

                                   Case No. 1:05-cv-529
v.   Hon. Hugh W. Brenneman, Jr.

CITY OF WYOMING and
JESSE LOPEZ,

       Defendants.

_____/

ORDER

       Defendants appealed the court's September 19, 2007 order which denied a motion

for summary judgment on grounds of qualified immunity. Their appeal is currently pending in the

Sixth Circuit. *See Virga Carter v. City of Wyoming*, No. 07-2296 (6th Cir.). This matter is now

before the court on defendants' "motion requesting transmittal of exhibit to the Sixth Circuit Court

of Appeals" (docket no. 81).

       In their motion, defendants seeks to have this court transmit two videotapes and one

DVD, which were attached to their brief in support of the motion for summary as Exhibit 5. *See*

docket no. 51. Defendants appear to be proceeding pursuant to the Sixth Circuit's local rule, 6 Cir.

R. 10(b), which provides in pertinent part as follows:

> Counsel is responsible for arranging with the district court for the
> transmission of demonstrative evidence to this Court. Manageable paper exhibits
> may be transmitted as part of the record on appeal and, in order to call them to the
> Court's attention, may appear as a separate volume of the appendix. The district
> court will not automatically include these exhibits with the record; therefore, they
> must be designated and a request made for their transmittal. Bulky paper exhibits,
> physical exhibits and any contraband are never to be transmitted to this Court
> without the express written permission of the clerk of this Court.

Exhibit 5 is a "physical exhibit" which cannot be transmitted to the Sixth Circuit without the express written permission of the clerk of that court. 6 Cir. R. 10(b). Defendants have not provided this court with such written permission. Accordingly, defendants' motion requesting transmittal of Exhibit 5 is **DENIED** without prejudice.

IT IS SO ORDERED.

Dated: March 27, 2008   /s/ Hugh W. Brenneman, Jr.
                                          HUGH W. BRENNEMAN, JR.
                                          United States Magistrate Judge